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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicant: Gress, E.
Application No.: 09/693,145
Filed: October 20, 2000
For: METHOD AND APPARATUS FOR CARD GAME
Examiner: A. Hunter
Art Unit: 3711
Attorney Docket: 0001398USU
Customer No.: 27623

COMMISSIONER FOR PATENTS
Mailstop Petitions
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITION FOR REVIVAL OF PATENT APPLICATION
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Dear Sir:

The above-identified application became abandoned for failure to file a timely and proper reply to an office action mailed on **June 27, 2001** which sets a **three (3)** month period for reply. The abandonment date of this application is **December 28, 2001**.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or Issue Fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
(4) Statement that the entire delay was unintentional.

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OFFICE OF PETITIONS

1. Petition fee

X Small entity - fee \$650.00 (37 CFR §1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$_____ (37 C.F.R. §1.17(m))

2. Reply and/or Fee

A. The reply and/or fee to the above-noted Office Action in the form of a Request for Continued Examination accompanied by the response to office action (identify type of reply):

_____ has been filed previously on _____

XX are enclosed herewith.

B. A firm check for \$1,025.00 covering the following fees:

(1) \$ 375.00 RCE Fee

(2) \$ 650.00 Petition fee under 37 CFR §1.17(m).

_____ has been paid previously on _____

XXX is enclosed herewith.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d) of \$_____ for a small entity or \$_____ for other than a small entity) equivalent to the number of months from abandonment to the filing of this petition is enclosed herewith.

4. **Revocation of Previous Powers and Appointment of New Powers of Attorney with Certificate Under 37 CFR §3.73(b)**

5. Statement

The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

Where a petition under 37 CFR 1.137(b) is filed:

(1) more than three months from the date the applicant is first notified that the application is abandoned, explain (on an attached sheet) in detail the cause of the delay in filing the petition;

(2) more than one year from the date of abandonment, explain (on an attached sheet) in detail how the delay in discovering the abandoned status occurred and indicate the date that applicant first became aware of the date of abandonment.

XXX The Commissioner is hereby authorized to charge any additional fees

under 37 C.F.R. §§1.16 and 1.17 which may be required with this communication or credit any overpayment, to **Deposit Account No. 01-0467**. A duplicate copy of this Form is enclosed.

REMARKS

In the Notice of Abandonment dated January 31, 2002 the present application is indicated as being abandoned for failure to timely file a proper reply to the Office letter mailed on June 27, 2001.

Applicant submits that the entire delay from the due date of the reply to the Office Action until this filing of a grantable petition was unintentional.

The present application is based on, and claims the benefit of, provisional application No. 60/208,532 filed on June 1, 2000.

The entire delay in responding to the Office Action resulted from a brain injury sustained by Applicant and the resulting loss of ability to fully comprehend events surrounding the Applicant (see the attached Affidavit). Particularly, Applicant had great difficulty understanding the complexities of prosecuting and defending the application.

On July 19, 2000, the Applicant suffered a brain injury during a fall off of the edge of a stairwell while at work. This brain injury is detailed in the attached Neuropsychological Examination Report and has kept the Applicant out of work until the present day. The Report states that Applicant "has permanent residual deficits in higher cortical functioning as well as mild disturbances in emotional regulation and social functioning under conditions of unusual stress" (Addendum, page 1), and that "[c]linically significant deficits are apparent in memory functioning, both verbal and visual aspects of memory, and certain executive/frontal lobe capacities" (page 5). The Report rates the permanent impairment in complex, integrated cerebral functions at 10% indicating that "the patient has objectively demonstrable deficits in higher cortical functioning" (Addendum, page 2). Further, this brain injury deteriorated to a point that in the Summer of 2001 Applicant simply lost all ability to comprehend and until recently, Applicant did not believe capable of any such understanding.

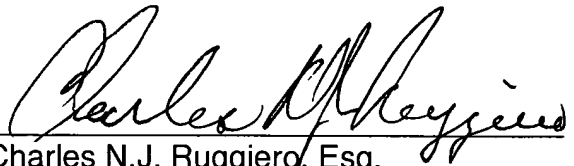
As stated in the attached Affidavit from the Applicant, Applicant was unable to comprehend the meaning of the failure to reply to the Office Action and the resulting abandonment of the application. Applicant was also unable to recognize whether he was made aware of the failure to reply and the consequences thereof. In any event, Applicant would have been unable to comprehend the failure to timely reply to the Office Action even if such consequences were thoroughly explained to him. This inability was due to the unique situation of the brain injury suffered by the Applicant. While the damage to the brain has improved, some, the injury appears permanent in that he does not comprehend some consequences.

Applicant only recently sought new representation to prepare and submit a response, and to petition for revival of the application.

As required by 37 CFR § 1.137(b), this petition is accompanied by the requisite reply, here a Request for Continued Examination (RCE) under § 1.114, and appropriate fee; a terminal disclaimer and fee; and the petition fee. The RCE is accompanied by a response to the Final Office Action dated June 27, 2001.

August 18, 2003

Date



Charles N.J. Ruggiero, Esq.

Attorney for Applicant

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CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE U.S. POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: MAIL STOP DAC, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450, ON August 18, 2003.

Tara L. Suhay

NAME



SIGNATURE

8/18/03

DATE